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VIA ECF

Honorable Lorna G. Schofield
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Federal Trade Commission v. Manatt, Phelps & Phillips, LLP*, No. 1:21-mc-00466-LGS

Dear Judge Schofield:

Prior to tomorrow's hearing, the parties jointly submit this letter to update the Court on the parties' progress as to the subpoena the FTC issued to Manatt, and the outstanding issues.

In a letter dated July 30, 2021, Manatt informed the FTC that it had loaded emails to a document review platform for two custodians, Linda Goldstein and Holly Melton, who are the only attorneys who worked on the matter during the relevant time period. Manatt further reported on August 16 that there are 10,051 unique documents in the database (7,571 emails and 2,480 attachments totaling 77,955 pages) responsive to the FTC's narrowed subpoena specifications, which limit the date range to September 1, 2014 to June 30, 2015 and exclude purely internal communications and communications solely among Manatt and two of its clients, Burton Katz and Jonathan Smyth. In an email on August 16, Manatt offered to run additional searches in Ms. Goldstein's and Ms. Melton's mailboxes if the FTC provides search terms.

Manatt's July 30 letter also informed the FTC that it ran searches on the documents referenced above, identified seven potentially responsive documents, and provided the attached privilege log to the FTC. Each of the seven emails identified contains the subject line "Escrow – contact intro" and copies an individual who is not a Manatt employee or client, Bryce Johnson. The FTC has sought, but not received, production of these emails (which it views as responsive, at minimum, to the subpoena's fifth specification). Manatt has provided the emails to the law firms Boies Schiller Flexner LLP and BakerHostetler (which represent defendants in the underlying *FTC v. On Point Global* case), and has told the FTC to raise arguments related to privilege with them.

The parties disagree as to whether Manatt needs to load documents from administrative assistants and back office staff. To resolve the dispute over the subpoena, Manatt proposed to review for responsiveness the 7,571 emails referenced above. The FTC agreed that the proposal would resolve the subpoena dispute as to the documents of the two custodians Manatt had loaded if it agreed to produce any responsive documents within two weeks, but not whether Manatt should review and load documents for additional custodians. Manatt did not agree to review the 7,571 emails without an assurance that the review will be sufficient to the FTC.

Sincerely,

/s/ Christopher Erickson
Attachment

/s/ Rebecca Kimmel

Federal Trade Commission v. On Point Global LLC, et al., Case No. 1:19-CV-25046-SCOLA (S.D. Fla.)										
Non-Party Manatt, Phelps & Phillips’s Privilege Log – As of July 30, 2021										
No.	Beginning of Bates Range	Ending of Bates Range	Doc. Type	Date Sent	Author/Sender	Recipient(s)	CC	Subject/Title	Description	Basis of Privilege
1	MPP0000034	MPP0000034	Email	September 9, 2014	Burton Katz	Holly Melton; Bryce Johnson	N/A	Escrow - contact intro	Document containing communications that are potentially subject to attorney-client privilege	Attorney-Client Privilege
2	MPP0000035	MPP0000035	Email Chain	September 9, 2014	Bryce Johnson	Burton Katz; Holly Melton	N/A	Re: Escrow - contact intro	Document containing communications that are potentially subject to attorney-client privilege	Attorney-Client Privilege
3	MPP0000036	MPP0000036	Email Chain	September 9, 2014	Holly Melton	Bryce Johnson	Burton Katz; Jonathan Smyth	Re: Escrow - contact intro	Document containing communications that are potentially subject to attorney-client privilege	Attorney-Client Privilege
4	MPP0000037	MPP0000037	Email Chain	September 9, 2014	Burton Katz	Holly Melton	Bryce Johnson; Jonathan Smyth	Re: Escrow - contact intro	Document containing communications that are potentially subject to attorney-client privilege	Attorney-Client Privilege
5	MPP0000038	MPP0000038	Email Chain	September 9, 2014	Jonathan Smyth	Holly Melton	Bryce Johnson; Burton Katz	Re: Escrow - contact intro	Document containing communications that are potentially subject to attorney-client privilege	Attorney-Client Privilege
6	MPP0000039	MPP0000039	Email Chain	September 9, 2014	Bryce Johnson	Holly Melton	N/A	FW: Escrow - contact intro	Document containing communications that are potentially subject to attorney-client privilege	Attorney-Client Privilege
7	MPP0000040	MPP0000041	Email Chain	September 9, 2014	Holly Melton	Bryce Johnson	N/A	Re: Escrow - contact intro	Document containing communications that are potentially subject to attorney-client privilege	Attorney-Client Privilege